

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Hunters Reserve, Inc.,

Plaintiff,

v.

Bavaria Sausage Kitchen, Inc.,

Defendant.

Case No. 0:10-cv-01923 ADM/JJK

**PLAINTIFF’S MOTION TO STAY
PROCEEDINGS PENDING
RESOLUTION OF INSURANCE
COVERAGE ACTION IN WISCONSIN**

1. Plaintiff Hunters Reserve, Inc. hereby moves this Court to stay this matter pending the resolution of insurance coverage issues raised in the case *Society Insurance v. Bavaria Sausage Kitchen, Inc. & Hunters Reserve, Inc.*, case number 11-CV-1027, pending in Wisconsin Circuit Court Branch 9, Dane County (the “Wisconsin Action”).

2. Society Insurance filed the Wisconsin Action on March 2, 2011, naming Bavaria Sausage Kitchen, Inc. and Hunters Reserve, Inc. as Defendants.

3. Society Insurance’s Complaint in the Wisconsin Action, attached as Exhibit 1 to this motion, seeks a declaratory judgment that its insurance policies with Bavaria Sausage Kitchen do not cover the claims alleged by Hunters Reserve in this action.

4. Coverage disputes decided under Wisconsin law generally should be determined prior to liability. *Fairview Health Services, Inc. v. Christian Community Homes and Services, Inc.*, 2005 WL 5015391, 2 (D.Minn. Oct. 14, 2005).

5. On April 14, 2011, Hunters Reserve received a letter from Bavaria Sausage Kitchen stating that—“due to economic considerations”—Bavaria Sausage Kitchen does not intend to file any response in the Wisconsin Action. See Exhibit 2.

6. Bavaria Sausage Kitchen’s failure to protect its coverage rights places the onus on

Hunters Reserve to litigate the Wisconsin Action on behalf of Bavaria Sausage Kitchen.

7. Bavaria Sausage Kitchen has indicated that it does not oppose a stay in this matter pending the resolution of the insurance coverage issues in the Wisconsin Action.

8. This motion is based upon all of the files, records and proceedings herein, as well as upon such other evidence as will be submitted to this Court in further written and oral arguments.

Dated: May 6, 2011

NILAN JOHNSON LEWIS PA

By s/ Ben Rolf

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